

HAWAII STATE

HOUSE OF REPRESENTATIVES

REGULAR SESSION OF 2011

***ROUGH DRAFT
JOURNAL***

THIRTY-EIGHTH DAY

MARCH 28, 2011

OFFICE OF THE CHIEF CLERK

A handwritten signature in black ink, appearing to be a stylized 'J' or 'K' followed by a flourish.

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THIRTY-EIGHTH DAY

Monday, March 28, 2011

The House of Representatives of the Twenty-Sixth Legislature of the State of Hawaii, Regular Session of 2011, convened at 12:07 o'clock p.m., with Vice Speaker Manahan, after which the Roll was called showing all Members present with the exception of Representatives Carroll, M. Oshiro and Riviere

By unanimous consent, reading and approval of the Journal of the House of Representatives of the Thirty-Seventh Day was deferred.

GOVERNOR'S MESSAGES

The following messages from the Governor (Gov. Msg. Nos. 188 through 190) were received and announced by the Clerk and were placed on file:

Gov. Msg. No. 188, dated January 11, 2011, transmitting the Report Relating To Public Land Liability And Recommendations Of The Task Force On Beach And Water Safety, prepared by the Department of Land and Natural Resources pursuant to Act 82, Section 4, SLH 2003, as amended by Act 152, SLH 2007, Act 81, SLH 2009, and Act 190, SLH 1996, as amended by Act 101, SLH 1999, as amended by Act 170, SLH 2002, as amended by Act 152, SLH 2007, as amended by Act 81, SLH 2009.

Gov. Msg. No. 189, dated January 11, 2011, transmitting the Initial Progress Report On The Implementation Of Act 15, Special Session of 2009 as required by Section 8 of Act 15, Special Session of 2009, prepared by the Department of Land and Natural Resources.

Gov. Msg. No. 190, dated January 24, 2011, transmitting a Report on QUEST Recipients, prepared by the Department of Human Services, Med-QUEST Division, pursuant to H.C.R. No. 199, H.D. 1 (2010).

SENATE COMMUNICATIONS

The following communication from the Senate (Sen. Com. No. 378) was received and announced by the Clerk:

Sen. Com. No. 378, transmitting H.B. No. 863, entitled: "A BILL FOR AN ACT RELATING TO HEALTH," which passed Third Reading in the Senate on March 24, 2011.

DEPARTMENTAL COMMUNICATIONS

The following departmental communications (Dept. Com. Nos. 72 and 73) were received by the Clerk and were placed on file:

Dept. Com. No. 72, dated January 18, 2011, from Clyde W. Namu'o, Chief Executive Officer, Office of Hawaiian Affairs, transmitting the Office of Hawaiian Affairs 2010 Annual Report, and the 2010 Office of Hawaiian Affairs Grants & Sponsorships Annual Report.

Dept. Com. No. 73, dated January 27, 2011, from Marion M. Higa, State Auditor, Office of the Auditor, transmitting a letter in response to the Legislature's request for an analysis on the effects of Act 227, SLH 2008, relating to insurance, to be repealed on June 30, 2011, and analysis of effects of Act 120, SLH 2008.

INTRODUCTIONS

The following introductions were made to the Members of the House:

Representative M. Lee introduced visitors from the Alabama State Department of Education:

Dr. Melinda Maddox, State Educational Technology Director for Alabama Department of Education;
Ms. Earlene Patton, Administrator at the Alabama Department of Education and ACCESS Distance Learning;
Mr. Barry Barnette, Director of the University of Alabama Support Center for the ACCESS Distance Learning Initiative;
Mr. Larry Raines, Administrator with the Alabama Department of Education, ACCESS Distance Education Program;
Dr. Amy Agbayani, Director of the SEED Program and UH Manoa; and
Dr. Francisco Hernandez, Vice Chancellor for Students at UH Manoa.

Representative C. Lee introduced students from Waimanalo Elementary and Intermediate School who will be going to Washington DC for the Close Up Civic Engagement Program: Kory Bernardino, Zinfandel Josiah, Gracelyn Martin-Hanohano, Tiani Lastimoso, Janet Sally, and Jaffy Sally. They were accompanied by College Planning Advisor Kalani Kuloloia; and Director, Judy Oliveira.

Representative Mizuno introduced students from Dole Middle School who will be going to Washington DC for the Close Up Civic Engagement Program: Paul Trocio, Aruko Rosokov, Lise Childers, Selena Supapo, Kayla Capsillan, Rachelyn Tumamao, and Elay Kesnino. They were accompanied by College Planning Advisor, Wendy Mow-Taira.

ORDER OF THE DAY

INTRODUCTION OF RESOLUTIONS
(FLOOR PRESENTATIONS)

The following resolution (H.R. No. 293) was announced by the Clerk and the following action taken:

H.R. No. 293, entitled: "HOUSE RESOLUTION CONGRATULATING LE JARDIN ACADEMY ON THE CELEBRATION OF ITS FIFTIETH ANNIVERSARY," was jointly offered by Representatives Thielen and C. Lee.

Representative Thielen moved that H.R. No. 293 be adopted, seconded by Representative C. Lee.

Representative Thielen congratulated Le Jardin Academy for 50 years of academic excellence and thanked the administrators, teachers, families and students for being an inspiration to the educational community.

Representative Thielen then introduced the following honorees representing Le Jardin Academy who were seated on the Floor of the House:

Mr. Adrian Allen, Headmaster;
Mr. PJ Foehr, Lower School Principal; and
Mr. Francoise Akina, Junior School Principal.

Representative C. Lee also thanked Le Jardin for their contributions to the community and introduced other honorees seated on the Floor of the House:

Ms. Victoria McNeill, High School Principal; and
Mr. Oliver Donkervoet, ASB Student Body President.

Representative Thielen then introduced guests seated in the gallery:

Le Jardin high school students from the Model United Nations Club;
Ms. Cynthia Manley, Director of Public Relations; and
Mrs. Donkervoet, mother of Mr. Oliver Donkervoet.

Representative Ching commended Le Jardin for preparing students for the 21st Century.

The motion was put to vote by the Chair and carried, and H.R. No. 293 was adopted, with Representatives Carroll and Riviere being excused.

ROUGH DRAFT

The following resolution (H.R. No. 294) was announced by the Clerk and the following action taken:

H.R. No. 294, entitled: "HOUSE RESOLUTION RECOGNIZING THE UNITED STATES SMALL BUSINESS ADMINISTRATION'S STATE OF HAWAII 2011 AWARDEES," was offered by Representative Choy.

Representative McKelvey moved that H.R. No. 294 be adopted, seconded by Representative Choy.

Representative McKelvey welcomed the US Small Business Association's 2011 Awardees for the State of Hawaii.

Representative Choy congratulated and introduced the following honorees seated on the Floor of the House:

Mr. Brian Bowers and Mr. Dexter Kubota of Bowers & Kubota Consulting, Inc., recipients of the 2011 Small Business Person of the Year award.

Representative McKelvey congratulated and introduced the following honoree seated on the Floor of the House:

Mr. Roger Lane of Roger Lane, Inc., recipient of the 2011 Home Based Business Champion award.

Representative Luke congratulated and introduced the following honoree seated on the Floor of the House:

Mr. Alan Okami of KoAloha, Inc., dba KoAloha Ukulele, recipient of the 2011 Family-Owned Small Business Award.

Representative Tokioka congratulated and introduced the following honoree seated on the Floor of the House:

Mr. Daniel T. Wright of Tambor, recipient of the 2011 Young Entrepreneur of the Year award.

Representative Tsuji congratulated the following honoree seated in the gallery:

Mr. Robert Fujimoto of HPM Building Supply, Ltd., the 2011 Entrepreneurial Success Awardee.

Representative Fontaine congratulated the following honorees seated in the gallery:

Mr. Eddie Flores of L&L Drive Inn and L&L Hawaii Barbeque, recipient of the 2011 Minority Small Business Champion of the Year Award;

Ms. Judy N. Bishop of Bishop & Company, Inc., recipient of the 2011 Women In Business Champion award; and

Mr. Henry L. Cashen of Soldier and Family assistance Center, United States Army, recipient of the 2011 Veteran Small Business Champion award.

Representative McKelvey congratulated the following honorees seated in the gallery:

Mr. Joseph Rossi of Maui Babe, Inc., recipient of the 2011 Small Business Exporter award;

Mr. Patrick R. Garcia, of Strategic Financial Concepts, LLC, 2011 Financial Services Champion; and

Mr. David Kane of Trex Hawaii-Advanced Materials Group, recipient of the 2011 Tibbetts Award for innovation and Research.

Representative Ward also commended the honorees for their entrepreneurial spirit and recognized Ms. Jane Sawyer of the Small Business Administration Hawaii Office who was seated in the gallery.

Representative Cabanilla also commended her former Army Reserve Commander, Brian Bowers.

The motion was put to vote by the Chair and carried, and H.R. No. 294 was adopted, with Representatives Carroll, M. Oshiro and Riviere being excused.

At 12:44 o'clock p.m. the Chair declared a recess subject to the call of the Chair.

The House of Representatives reconvened at 12:53 o'clock p.m.

SUSPENSION OF RULES

On motion by Representative Evans, seconded by Representative Pine and carried, the rules were suspended for the purpose of considering certain Senate Bills for Third Reading by consent calendar. (Representatives Cabanilla, Carroll, M. Oshiro and Riviere were excused.)

THIRD READING

S.B. No. 1069, SD 1, HD 1:

Representative B. Oshiro moved that S.B. No. 1069, SD 1, HD 1, pass Third Reading, seconded by Representative Evans.

Representative Ching rose to speak in support of the measure, stating:

"Thank you, Mr. Speaker. I rise again in strong support of this measure, but I did want to just recap, and I will be asking for additional written comments in support, that we honor dogs. They perform in our communities by assisting blind individuals, detecting invasive species, detecting illegal drugs, search and rescue, they serve, they protect. Mr. Speaker, in strong support."

Representative Ching's written remarks are as follows:

to Cruelty To Animals. If enacted, this bill would increase the penalty of cruelty to animals by fighting dogs in the first degree and establish a second degree of cruelty to animals by dog fighting.

"As noted by Inga Gibson, Hawaii State Director for the Humane Society of the United States, in a national ranking of dog fighting laws, Hawaii ranked 50th with the weakest laws. Moreover, under our existing law who are knowingly present and/or wager on dog fights, who drive the profit related to dog fights, they could simply claim they were spectators and face no penalty.

"Dogs have been specifically trained to assist those with physical and mental disabilities, have the ability to sniff out cancer and detect the onset of seizures, and help to lower blood pressure, decrease serum cholesterol and relieve anxiety in people.

"Moreover, Hawaii has one of the highest rates of diabetes and an article published in the New York Times and re-printed in the March 15, 2011 Star-Advertiser revealed a study of 41,500 California residents that showed dog owners to be 60 percent more likely to take leisure walks than non-pet owners, older people are more likely to take walks if the walking companion is a canine, and that dog walkers show a much greater improvement in fitness than non-pet owners.

"You should also note, that according to a Human Society survey in 2009, 60% of Oahu households own a pet, 43% of these Oahu households own at least one dog.

"Colleagues, I implore you to support this measure. Dogs serve as a model to our children and reflect many of the values we uphold. This bill lets violators know we are committed to cracking down on illegal dog fighting. Thank you."

Representative Souki rose to speak in opposition to the measure, stating:

"Mr. Speaker, I wish to vote no on this measure. I agree we should have a Class C felony for those who have dogs who are used for dog fighting. However, I do not agree that the spectators who are observing the fight should be given a Class C felony equal to the penalty for the owner of the dog who is participating in the fight. I believe that a misdemeanor with penalties up to one year is sufficient for a spectator who is watching the fight."

"Mr. Speaker, I do hope that as it goes into Conference that they can look at amending the section that has to do with penalties for the spectators, changing it from a felony to a misdemeanor."

"For the Member's information, even a misdemeanor can carry penalties of up to two years in jail if need be. So that is more than sufficient for being a spectator at a fight, and not for being one of the owners whose dog has participated. We have now too many felonies in the books. We don't have enough jail space. And we are not building any prisons. So until this thing is rectified, I believe we should put a halt on all of these felonies. Thank you, very much."

Representative Brower rose to speak in support of the measure, stating:

"Mr. Speaker, in support. A brief comment. I want to join my colleague from Liliha, and in my research on this bill I found out unfortunately dogs do not possess the metabolic enzymes to eat chocolate. Thank you."

The motion was put to vote by the Chair and carried, and S.B. No. 1069, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO CRUELTY TO ANIMALS," passed Third Reading by a vote of 45 ayes to 1 no, with Representative Souki voting no, and with Representatives Cabanilla, Carroll, M. Oshiro and Riviere being excused.

S.B. No. 1489, SD 1, HD 1:

On motion by Representative B. Oshiro, seconded by Representative Evans and carried, S.B. No. 1489, SD 1, HD 1, entitled: "A BILL FOR AN ACT RELATING TO ATTORNEY'S LIENS," passed Third Reading by a vote of 46 ayes, with Representatives Cabanilla, Carroll, M. Oshiro and Riviere being excused.

At 12:57 o'clock p.m., the Chair noted that the following bills passed Third Reading:

S.B. No. 1069, SD 1, HD 1
S.B. No. 1489, SD 1, HD 1

ANNOUNCEMENTS

Vice Speaker Manahan: "Members, I would just like to remind you that tomorrow our floor session will begin at noon, and we will convene in Joint Session at 2:00 p.m. in the Senate Chambers for the Hawaii Medal of Honor ceremony."

COMMITTEE ASSIGNMENTS

The following measure was referred to committee by the Speaker:

S.C.R.
No.

Referred to:

21 Committee on Culture & the Arts

COMMITTEE REASSIGNMENTS

The following measure was re-referred to committee by the Speaker:

S.B.
No.

Re-referred to:

892,
SD2,
HD1

Committee on Health, then to the Committee on Judiciary

ADJOURNMENT

At 12:58 o'clock p.m. on motion by Representative Evans, seconded by Representative Pine and carried, the House of Representatives adjourned until 12:00 o'clock noon tomorrow, Tuesday, March 29, 2011. (Representatives Cabanilla, Carroll, M. Oshiro, Riviere and Wooley were excused.)